19 [illegible]

File No. Extra Prov Juris II/48

Legal Deptt

B BRANCH

Subject:—

Rules and Notifications under the Extra Provincial Jurisdiction

P. 69 (2)

File No. Extra Prov. Juris II/48

Gen. 194 e.

22-B

Office of the R.L.A

The necessary draft Order for the effective exercise of Extra-Provisional jurisdiction in the Deccan States, prepared after discussion with the Chief Secretary is sent herewith.

2. The Government of India Notification which has delegated to the Provincial Government the power conferred by section 4 of the Extra-Provincial Jurisdiction Act, 1947, is restricted to matters enumerated in Lists II and III. In virtue of this restricted scope of delegation, it would not be competent to the Provincial Government to make any order applying or preserving in force any law which relates to the matters falling in lists I, since even its legislative powers are confined to Lists II and III. Paragraph 4 of the Order, therefore, applies or preserves only those laws which relate to any of the matters enumerated in Lists II and III. Similarly paragraph 8 of the Order preserves only those taxes, duties, cesses or fees which are specified in Lists II and III.

3. Paragraph 5 of the Order gives additional jurisdiction to the High Court of Judicature at Bombay. The Political and Sp Services Department should consider whether in view of the additional work thus thrown on the High Court, it may not be necessary to consult the High Court before the order is promulgated.

4. Paragraph 7 of the Order casts certain duties upon the Accountant General, Bombay. The Accountant General, Bombay is an officer of the Central Government but there is no legal objection to requiring an officer of the Central Government to to perform and exercise any duties and powers which the Provincial Government may deem necessary: but before this is done it would be necessary to take the consent of the Central Government.

5. Paragraph II of the Order gives protection to the Provincial Government and its officers in respect of anything in good faith done or surporting to be done under the Order. This is a necessary provision and will save the Provincial Government and its officers from vexatious suits or proceedings.

6. Paragraph 12 of the Order takes power to repeal the Aundh State Constitution Act. Since it is doubtful whether the Constitution Act of the Aundh State is in reppect of matters enumerated in Lists II or III, it would be desirable if the Aundh State Constitution Act is repealed by the Central Government.

7. Schedule I specifies the States in repect of which the proposed Order would be passed for exercising therein Extra-Provincial jurisdiction. It is presumed that Rulers of all the States specified in the Schedule have executed agreement ceding to the Dominion Government authority, jurisdiction and powers for and in relation to the governance of their States; for without such cession of the Central Government would not acquire jurisdiction and cannot delegate to the Provincial Government the power of making orders for the effective exercise thereof.

Remembrancer of Legal Affairs

U.R.toR P. & S.D.,No. 2131 Dated the 2nd March 1948.

VGP.
31-5-56.

It is not clear whether the Indian Companies Act, 1913, has been adopted by the Rulers of the States and made applicable thereto with modifications or without modifications. If the Act is not already in force in the States and it is decided by the Central Government to apply the same to the States the question whether the Joint Stock Companies incorporated in the Province of Bombay or not will depend on whether the Act is applied to the States with or withoub modification.

Remembrancer of Legal Affairs.

---- -- - - S.D., No. 2739. Dated the 19th March 1948.

VGP.

31 - 5 - 56.

 Office of the R.L.

A revised draft notification is sent herewith.

Remembrancer of Legal Affairs.

U.R. to F.D. No. 3165 Dated the 31st March 1948.

VGP.

31 - 5.- 50.

Notification.

Political and Services Department,
Bombay Castle, 1948.

Administration of Deccan States Order, 1948.

No. In pursuance of the provisions of clause 6 of the Administration of Deccan States Order, 1948, the Government of Bombay is pleased to declare the Provincial National Savings Officer, Bombay, to be the head of department for the purposes of the said order.

By order of the Governor of Bombay,

Secretary to Governme

VGP.

Office of the R.L.A.

The Deccan States in respect of which the Administration of Deccan States Order, 1948, has be been made by the Provincial Government do not form part of the Province of Bombay and, therefore, the Bombay Molasses Act, 1947, does not apply to them pro prio vigore. Schedule II to the Administration of Deccan States Order does not mention the Bombay Molasses Act, 1947. If that Act was in force in ay any Deccan State immediately before 8-3-1948 it sha- ll by virtue of para. 4(1) of the Order referred to above continue in force in that state. If, however the Act was not in force in any Deccan State imme- diately before the aforesaid day, it would be nece- ssary to amend the Order for the purpose of making it applicable to the States.

Remembrancer of Legal Affairs.

U.R. to P. & S.D. No. 2598. Dated 15th March 1948.

VGP.

31 - 5 -56.

Office of the R.L.A.

Attention is invited to R.L.A's opinion No. 119-Confl., dated the 4th March 1948, in which the legal position regarding claims of persons appointed by States in their services is fully considered. Mr. Rajwade can have no legal right either against the State or the Government to continue him in service or to claim any compensation in liew thereof. As stated in the said opinion, there is, however, a normal moral obligation on the Government to respect the assurance which it had declared in its intention to continue the memebrs of t the public service in the State on donditions similar to what they were entitled to before 1st December 1947 as changed circumstances may permit. In view of this assurance Mr. Rajwade may have to be continued in service in some judicial capacity substantially on the same terms to which he was entitled before 1st December 1947 till 31st October 1948.

2. As regards the oral assurance given to Mr. Rajwade by the late Rajasaheb when he was appointed in 1946 as a District and Sessions Judge that he would be continued in service for a period of five years, it is entirelym for Government to consider whether such oral assurance should be respected in any particular case and if so, to what extent.

Remembrancer of Legal Affairs.

L.R. to P.d.S.D., No. 2974. Dated the 29th March 1948.

VGP.

31 - 5 - 56.

Office of the H.L.A.

It is not clear whether the Bombay Public Security Measures Act, 1947, was adopted by the Phaltan State and made applicable to the State on or before the date on which the Additional District Magistrate, Phaltan made orders thereunder for detention of the detenus in question. Assuming that the Act was in force in the Phaltan State on the relevant date, it is not understood how the Additional District Magistrate could rely on the delegation notification of 26-4-1947 issued by the Bombay Government. Under that notification the District Magistrates and Additional District Magistrates who were entrusted with the functions of the Provincial Government under the sub-sections (1), (2) and (4) of section 2 and sections 3 and 4 of the Act were the District Magistrates and the Additional District Magistrates of the Province of Bombay and therefore the Additional District Magistrate of Phaltan could not act thereunder. The orders passed by the Additional District Magistrate of Phaltan appear therefore to be void ab initio. The proper course therefore would be to release the prisoners, apply the Bombay Public Security Measures Act, 1947 to the State, if it is not already in force therein, and then take action thereunder for again detaining the prisoners if necessary. If it is intended that the orders for their detention should be passed by a Magistrate in the State it would be necessary for the Provincial Government to delegate powers of detention to such Magistrate by the issue of a fresash delegation notification under the Act as applied to the State.

Remembrancer of Legal Affairs.

U.H. to P. & S.D. No. 3151. Dated 31st March 1948.

Office of the R.L.A.

There is no objection to making an order under sectio of the Extra-Provincial Jurisdiction Act, 1947, for the ap liomtion of any particular law to any particular State ou of the States over which Government exercises extra-provin- cial jurisdiction.

Remembrancer of Legal Affairs.

U.R. to P.& S.D., No. 3407. Dated the 9thApril 1948.

VGP.

31 - 5 - 56.

Office of the R.L.A.

As pointed out in R.L.A.'s opinion at pp. 133-36 ante the Government of India Notification No. 150-IB, dated terms 25-2-1948, was defective in that it did not delegate in terms to the Provincial Government the Extra-Provincial Jurisdiction which the Central Government had for and in relation to the States in question. Since the Central Government have considered it necessary to supersede the notification of 25-2-48 and issue in its place a fresh notification delegating in terms the ex ra-provincial jurisdiction to the Provincial Government it would be legally necessary to make another order for the administration of the Deccan States in supresession of the existing order and issue a fresh any notificayions, orders, etc. made thereunder. Such a course would put beyond all doubt all actions taken by the Provincial Government for the administration of the Deccan States after the date of the new order. However, this course if taken by itself now may result in pointedly inviting attention to the invalidity of the actions as going beyond the scope of the powers originally delegated. Therefore any convenient opportunity such as the merger of the Gujarath States may be utilised for re-issuing the old Orders under the new delegation; and the notifications etc., already issued can than be saved by making a suitable provision. In the meanwhile the question of the scope of the appliction of laws relating to matters in all three lists may be got examined since the old delegation covered the matters in Lists II and III only. The question of regularising or validating any action taken before the issue of the new order can be considered if and when any such action is challenged in a court of law.

Remembrancer of Legal Affairs.

U.R. to P. &S.D. No. 4591. Dated the 6th May 1948.

VGP.

31 - 5 -56.

The drafts of orders relating to Deccan States (A to H) are appended. As a separate order for the administration of the Janjira State has been published, it would be advisable to issue separate orders which will relate to that State H.D. can prepare these orders on the lines of the drafts appended, substituting the reference to notification No. 2325/46 dated 23th April 1948 for Notification No.2325/46 dated 2nd March 1948 which related to Deccan States.

2. The Public Security Measures Act, 1947, amends inter alia the Criminal Law Amendment Act, 1908 and the Bombay District Police Act. As the Criminal Law Amendment Act deals with unlawful association and has to be in force along with the Public Security Measures Act, it will be desirable to supersede corresponding enactments in force and to bring the acts in force in the States in the States. As regrds the Bombay District Police Act, it is no doubt true that sub-para. (2) of para 4 of the Administration Order applies that Act to States where there is no corresponding enactment in force. In the States where however a Police Act is in force, it is continued in force under sub-para (1). In these States it will be necessary to provide that the provision corresponding to section 42 of the District Police Act in force in these States shall be deemed to have been amended by the new provision insection 23 of the Public Security Measures Act relating to corrosive substances etc.

(If H.D. has no Objection, I should like to see the final drafts before they are sent to the Press.)

Additional Secretary to Government.

U.R. toH.D., No. 251 Confl. Dated the 24th May 1948.

VGP.

31 - 5 - 48.

A

Order.

No. In exercise of the powers conferred by section 4 of the Extra-Provincial Jurisdiction Act, 1947 (XLVII) of1947), read with Notification No. 174-IB, dted the 23rd March 1948 of the Government of India in the Ministry of States, read also with paragraph 4 of the Administration of Deccan States, Order, 1948, the Government of Bombay is hereby pleased to direct that with effect from the date of this Order,--

(a) all enactments corresponding to the provisions contained in the Bombay Public Security Measures Act, 1947 (Bom.VI of 1947 and the Indian Criminal Law Amendment Act, 1908 (XIV of 1908), by whatever name or title named or described and if any in force in the States mentioned below, immediately before the date of this Order, shall be repealed, and

(b) the Bombay Public Security Measures Act, 1947 (Bom. VI of 1947) and the Indian Criminal Law Amendment Act, 1908 (XIV of 1908), subject to any amendment to which the said Act is for the the time being subject in the Province of Bombay, shall , so far as the circumstances admit, extend to the said States.

States.

Akalkot	Kurundwad (Senior)	Phaltan
Aundh	Kurundwad (Junior)	Ramdurg
Bhor	Miraj (Senior)	Sangli
Jamkhandi	Miraj (Junior)	Savanur
Jath	Mudhol	Sawantwadi
		Wadi Jagi

Bombay
By order of the Governor of Bombay.

Secretary to Government.

VGP.

31 - 5 -56.

B

Order.

No. In exercise of the powers conferred by sub-section (4) of section 1 of the Bombay Public Security Measures Act, 1947, (Bom. VI of 1947), read with Government Notification, Home Department (Political) No. , dated the 1948, the Government of Bombay is hereby pleased to direct with effect from the date of this Order that the provisions of sections 2 to 22 (both inclusive), 24, 25, 27, and sub-section (1) of section 28 of the Bombay Public Security Measures Act, 1947 (Bom. VI of 1947 shall come into force in the States mentioned below.

States.

Akalkot	Kurundwad (Senior)	Phaltan
Aundh	Kurundwad (Junior)	Randurg
Bhor	Miraj (Senior)	Sangli
Jamkhandi	Miraj (Junior)	Savanur
Jath	Mudhol	Sawantwadi
		Wadi Jagir.

By Order of the Governor of Bombay.

Secretary to Government.

VGP.

31 - 5 - 56.

C.

Order.

No. .- In exercise of the powers conferred by section 4 of the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947), read with Notification No. 174-1B, dated the 23rd March 1948, of the Government of India in the Ministry of States, read also with paragraph 4 of the Administration of Deccan States Order, 1948, and Government Notifications, Home Department (Political) No. , dated the 1948, the Government of Bombay is hereby pleased to direct that in the States mentioned below in which before the date of this Order the provision corresponding to section 42 of the Bombay District Police Act, 1890, (Bom IV of 1890) has been in force, the said provision shall be deemed to have been amended by sub-section (1) of section 28 of the Bombay Public Security Measures Act, 1947 (Bom VI of 1947).

States.

Akalkot	Kurundwad (Senior)	Phaltan
Aundh	Kurundwad (Junior)	Ramdurg
Bhor	Miraj (Senior)	Sangli
Jamkhandi	Miraj (Junior)	Savanur
Jath	Mudhol	Sawantwadi
		Wadi Jagir.

By order of the Governor of Bombay.,

Secretary to Government.

618

D.

Home Department (Political).
Bombay Castle, May 1948.

ORDER.

No. In exercise of the powers conferred by section 21 of the Bombay Public Security Measures Act, 1947 (Bom.VI of 1947), read with Government Notifications, Home Department(Political) No. * dated , the Government of Bombay is pleased to direct that the powers conferred and duties imposed on it by sub-sections (1), (2) and (2A) of section 2 and by sections 3 and 4 of the said Act shall within each of the States mentioned below also be exercised and discharged, as the case may be, both within as also outside their respective jurisdictions by the District Magistrates, and Additional District Magistrate, appointed for each of the said States.

STATES.

Akalkot	Kurundwad (Senior)	Phaltan
Aundh	Kurundwad (Junior)	Ramdurg
Bhor	Miraj (Senior)	Sangli
Jamkhandi	Miraj (Junior)	Sawantwadi Savanur
Jath	Mudhol	Sawantwadi Wadi Jagir.

By order of the Governor of Bombay.

Secretary to Government.

Vgr.

31 - 5 56.

Office of the R.L.A.

It appears that before the issue of Government of India Notification, Political Department, No.224-P, dated 12th August 1947 the Hon'ble the Resident at Baroda and for the States of Western India and Gujarat was exercising all powers and functions under the Indian (Foreign Jurisdiction) Order in Council, 1902 in respect of all the territories and estates compromised in the administered area of the Dangs States. In virtue of these powers the Resident at Baroda made an Act called the Dangs Executive Council consisted of the Dangs. Under Regn. Act was formed the Executive Council of the Dangs / Under section 3 of that Act the Executive Council consisted of a President who was the Diwan. The Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, has not saved the Dangs Executive Act with the result that the Executive Council created under that Act no longer continues to function. There is, therefore, no office of an the Diwan and President, Executive Council, Dangs in Existence and consequently, the post of the Naib Diwan which appear from the Collector's letter at p. 1 ante to have been created to assist the Diwan automatically lapses.

sd/p m k

Remembrancer of Legal Affairs.

U.R. to R.D., No.5104. Dated 29th May 1948.

VGP.

31 - 5 - 50.

Revised draft orders in place of those at pages 13-15 are sent herewith.

2. The Bombay Sales Tax Act, 1946, has been repealed and re-enacted by the Bombay Sales Tax (Repeal and Re-enactment) Act, 1948 (Bom.XXIV of 1948), and the correct title of the Act has no now been shown in the order.

3. Only the Bombay Sales Tax Act is intended to be amended in its application to the Deccan States and not the Rules and Orders made thereunder. The reference to rules, orders and notifications has therefore been made in a separate paragraph.

Additional Secretary to Government.

U.R. to F.D. No,332 Condfl. Dated the 24th June 1948.

VGP.

31 - 5 - 56.

Finance Department,
Bombay Castle, 1948.

Order.

No.6495/33-S.T.- In exercise of the powers conferred by section 4 of the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947), read with notifications No. 174-1B, dated the 23rd March 1948 and No.183-1 B, dated the 14th April 1948 , of the Government of India in the Ministry of States, and with paragraph 4 of the Administration of the Indian States Order, the Government of Bombay is pleased to direct that --

(1) The Bombay Sales Tax Act 1946 (Bom. V of 1946) read with the Bombay Sales Tax (Repeal and Re-enactment) Act, 1948 (Bom.XXIV of 1948), hereinafter called said Act, subject to any amendment to which the said Act is for the time being subject in the Province Bombay, shall, so far as the circumstances admit subject however to the follwoing modifications, extend to the States mentioned in the Schedule annexed hereto (hereinafter refferred to as the said States), namely:-

In the said Act ---

(a) for section 5, the following section shall be substituted :-

" 5(1) Subject to the provisions of sections, and with effect from 1st August 1948 every dealer whose gross turnover during the year ended on 31st March 1948, in respect of sales or supplies of goods exceeds-

(a) in the case of a dealer who brings any goods into the Province of Bombay and the said States whether by land, water or air, Rs 10,000, provided his gross turnover in respect of such goods is not less than Rs. 1000;

(b) in the case of a manufacturer or processor Rs. 10,000 and

(c) in the case of any other dealer Rs. 30,000;

shall be liable to pay tax under this Act on his turnover in respect of sales or supplies of goods effected after the 1st day of August 1948;

(2) Every dealer to whom sub-section (1) does not apply shall be liable to pay tax under this Act with effect from the date of expiry of two-months after the month upto the end of which from the 1st April preceeding thereto his turnover in respect of sales or supplies of goods exceeds the limits specified in sub-section (1), or from the 1st August 1948, whichever is later;

(3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years, during each of which his gross turnover in respect of sales or supplies of goods has failed to exceed the limits specified in sub-section (1) and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay the tax shall cease.

(4) Every dealer whose liability to pay tax has ceased under the provisions of sub-section (3) shall again be liable to pay tax under this Act with effect from the date of expiry of three months adter the commencement of the year immediately following that during which his gross turnover in respect of sales or supplies of goods, again exceeds the limits specified in sub-section (1)".

(b) Except in the preamble and in section 5 as substituted by sub-clause (a) the references to the Province of Bombay" shall be construed as references to the Province of Bombay and the said States.

(c) Notwithstanding anything contained in the said Act the said Act shall be deemed to have come into force in each of the said States from the date of this Order.

(2) Any notification, order, or rules issued, or made under the said Act in the Province of Bombay shall, so far as circumstances admit, be deemed to have been issued or made under the said as so extended to the said state

(3) Any enactment, corresponding to the provisions contained in the Bombay Sales Tax Act, 1946 (Bom.V of 1946), read with the Bombay Sales Tax (Repeal and Re-enactment) Act 1948, (Bo XXIV of 1948), by whatever name or title named or described and if any in force in any of the States shall be repealed with effect from the 1st August 1948.

Schedule.

Akalkot	Kurundwad (Senior)	Phaltan
Aundh	Kurundwad (Junior)	Ramdurg
Bhor	Miraj (Senior)	Sangli
Jamkhandi	Miraj (Junior)	Savanur
Janjira		Sawantwadi
Jath	Mudhol	Wadi Jagir.

By order of the Governor of Bombay.

Secretary to Government.

VOP.

31 - 5 - 50.

NOTIFICATION.

Finance Department,

Bombay Castle, June 1948.

No. 6495/33-S.T.- In exercise of the powers conferred by sub-section (1) of section 3 of the Bombay Sales Tax Act, 1946 (V of 1946) read with the Bombay Sales Tax (Repeal and Re-enactment) Act, 1948 (Bom XXIV of 1948), and with the Government Notification, Finance Department, No.6495/33-S.T. dated June 1948, the Government of Bombay is pleased -

(a) to appoint the officers specified in column 1 of the Schedule annexed hereto as the Sales Tax Officers for the State or States specified against them in column 2 thereof;

(b) to appoint the Assistant Commissioner of Sales Tax, Southern Circle, Poona as the Assistant Commissioner of Sales Tax for all the States specified in column 2 of the said Schedule.

Schedule.

Designation of the Officer.	Name of the State or States.	Head-quarters of the Sales Tax Officer.
1.	2.	3.
(1) Sales Tax Officer, Poona and Sholapur District.	Akalkot and Bhor.	Poona.
(2) Sales Tax Officer, Satara and Ratnagiri Districts.	Aundh, Kurundwad (Senior) Kurundwad (Junior) Miraj (Senior) Miraj (Junior) Phaltan and Sangli.	Satara.
(3) Sales Tax Officer, Belgaum and Bijapur Districts.	Jath Jamkhandi, Mudhol, Ramdurg Sawantwadi and Wadi-Jagir	Belgaum
(4) Sales Tax Officer, Dharwar and Kanara Districts.	Savanur	Hubli.
(5) Sales Tax Officer, Thana and Kolaba, Districts.	Janjira	Thana

By order of the Governor of Bombay

Secretary to Government.

Office of the R.L.A.

The position as regards the power of the Provincial Government to apply laws to Indian States has changed since the issue of the Administration of Deccan States Order, 1948. After issue of that Order, the Government of India have issued fresh delegation notifications in virtue of which the Provincial Government is competent to apply laws not only falling in Lists II and III but also falling in List I to the Indian States. After issue of the aforesaid delegation notifications, the Government of Bombay on 2nd June 1948 made the Administration of the Indian States O Order , which inter alia applies to Deccan States. Under paragraph 4 of that Order, such provisions or such parts of provision (a) of any law, or (b) of any notification, order, scheme, rule, form or by-law issued, made or prescribed under any law as were in force immediately before the appointed day in any Indian State shall continue in force until altered repealed or amended by an order under the Extra Provincial Jurisdiction Act, 1947, The appointed day in respect of the Deccan States is the 8th March 1948 (see para. 2(e) of the order). If, as appears to be the case, the Stamp Act and the Court Fees Act and the rules, if any, made thereunder were in force in the Deccan States immediately before the 8th of March 1948, those laws under the aforesaid para 4 of the order continued were in force in those States. The Court fees and the general stamps required to be used under the Stamp Act and the Court Fees Act as in force in these States will have, therefore, continued validity till a direction to the contrary is issued by the provincial Government.

sd/-

Remembrancer of Legal Affairs.,

U.R. to P. and S.D., No. 5777. Dated the 21st June 1948.

VGP.

1 - 6 - 56.

Finance Department,
Bombay Castle, 1948.

Order.

No.8495/33-S.T.- In exercise of the powers conferred by section 4 of the Extra-Provincial Jurisdiction Act, 1947 (XLVII of 1947), read with notifications No. 174-1B, dated the 23rd March 1948 and No.183-1 B, dated the 14th April 1948 , of the Government of India in the Ministry of States, and with paragraph 4 of the Administration of the Indian States Order, the Government of Bombay is pleased to direct that --

(1) The Bombay Sales Tax Act 1946 (Bom. V of 1946) read with the Bombay Sales Tax (Repeal and Re-enactment) Act, 1948 (Bom.XXIV of 1948), hereinafter called said Act, subject to any amendment to which the said Act is for the time being subject in the Province Bombay, shall, so far as the circumstances admit subject however to the follwoing modifications, extend to the States mentioned in the Schedule annexed hereto (hereinafter refferred to as the said States), namely:-

In the said Act ---

(a) for section 5, the following section shall be substituted :-

" 5 (1) Subject to the provisions of sections 6 and with effect from 1st August 1948 every dealer whose gross turnover during the year ended on 31st March 1948, in respect of sales or supplies of goods exceeds-

(a) in the case of a dealer who brings any goods into the Province of Bombay and the said States whether by land, water or air, Rs 10,000, provided his gross turnover in respect of such goods is not less than Rs. 1000;

(b) in the case of a manufacturer or processor Rs. 10,000 and

(c) in the case of any other dealer Rs. 30,000;

shall be liable to pay tax under this Act on his turnover in respect of sales or supplies of goods effected after the 1st day of August 1949;

(2) Every dealer to whom sub-section (1) does not apply shall be liable to pay tax under this Act with effect from the date of expiry of two-months after the month upto the end of which from the 1st April preceeding thereto his turnover in respect of sales or supplies of goods exceeds the limits specified in sub-section (1), or from the 1st August 1948, whichever is later;

(3) Every dealer who has become liable to paytax under this Act shall continue to be so liable until the expiry of three consecutive years, during each of which his gross turnover in respect of sales or supplies of goods has failed to exceed the limits specified in sub-section (1) and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay the tax shall cease.

(4) Every dealer whose liability to pay tax has ceased under the provisions of sub-section (3) shall again be liable to pay tax under this Act with effect from the date of expiry of three months adter the commencement of the year immediately following that during which his gross turnover in respect of sales or supplies of goods, again exceeds the limits specified in sub-section (1)".

(b) Except in the preambleand in section 5 as substituted by sub-clause (a) the references to the Province of Bombay" shall be construed as references to the Province of Bombayand the said States.

(c) Notwithstanding anything contained in the said Act the said Act shall be deemed to have come into force in each of the said States from the date of this Order.

(2) Any notification, order, or rules issued, or made under the said Act in the Province of Bombay shall, so far as circumstances admit, be deemed to have been issued or made under the said as so extended to the said state

Office of the R.L.A.

The position as regards the power of the Provincial Government to apply laws to Indian States has changed since the issue of the Administration of Deccan States Order, 1948. After issue of that Order, the Government of India have issued fresh delegation notifications in virtue of which the Provincial Government is competent to apply laws not only falling in Lists II and III but also falling in List I to the Indian States. After issue of the aforesaid delegation notifications, the Government of Bombay on 2nd June 1948 made the Administration of the Indian States Order , which inter alia applies to Deccan States. Under paragraph 4 of that Order, such provisions or such parts of provision (a) of any law, or (b) of any notification, order, scheme, rule, form or by-law issued, made or prescribed under any law as were in force immediately before the appointed day in any Indian State shall continue in force until altered repealed or amended by an order under the Extra Provincial Jurisdiction Act, 1947, The appointed day in respect of the Deccan States is the 8th March 1948 (see para. 2(e) of the order). If, as appears to be the case, the Stamp Act and the Court Fees Act and the rules, if any, made thereunder were in force in the Deccan States immediately before the 8th of March 1948, those laws under the aforesaid para 4 of the order continued were in force in those States. The Court fees and the general stamps required to be used under the Stamp Act and the Court Fees Act as in force in these States will have, therefore, continued validity till a direction to the contrary is issued by the provincial Government."

sd/-

Remembrancer of Legal Affairs.

U.R. to P. and S.D., No. 5777. Dated the 21st June 1948.

VGP.

1 - 6 - 56.

A revised draft notification is sent herewith.

2. As the notification regarding the appointment of Mr. Mirchandani has been already issued under section 10 of the Code of Criminal Procedure, 1898, as in force in the Sangli group of States i.e.the States consisting of Wadi Jagir, Sangli, Miraj (Senior), Miraj (Junior), Jath and Jamkhandi, it is presumed that the Code of Criminal Procedure, 1898 has been adopted by all the States in the Sangli group.

S. D.

Additional Secretary to Government.

U.R. to H.D. No. 5739. Dated the 19th June 1948.

VGP.

1 - 6 -36.

NOTIFICATION.

Home Department,

Bombay Castle, 1948.

No. In exercise of the powers conferred by sub-section (1) of section 20 of the Code of Criminal Procedure, 1898, as in force in the States of Wadi Jahgir, Sangli, Miraj (Senior) Miraj (Junior) Jath and Jamkhand read with paragraph 4 of the Administration of Indian States Order, the Government of Bombay is pleased to appoint Mr. E. Gorey, Administrator of the said States, as an Additional District Magistrate for each of the said States.

By order of the Governor of Bombay.

Secretary to Government.

VGP.

1 - .6 56.

 Legal Department.

A revised draft notification is sent herewith.

Mr. Sali has already been appointed a First Class Magistrate in Jamkhandi State under Government Notification, Home Department, No 2325/46-A II, dated the 12th April 1948. The present notification is being issued under section 12 of the Criminal Procedure Code, 1898, as in force in Sangli State. The words "in addition to his appointment as a Magistrate of the First Class in Jamkhandi State" are not in fact necessary nor appropriate and have therefore been deleted.

Additional Secretary to Government.

U.R. to H.D. No. 5924. Dated the 24th June 1948.

VGP.

1 - 6 -58.

No. S. [illegible]
Home Department.
Bombay Castle. 1948.

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of section 12 of the Code of Criminal Procedure 1898, (V of 1898) as in force in the State of Sangli, read with paragraph 4 of the Administration of Indian States Order, the Government of Bombay is pleased to appoint Mr. S.G. Sali, to be a Magistrate of the First Class in Sangli State.

By order of the Government of
Bombay, ~~Home Department~~

VGP.

Secy to Govt
H.D

Subject to the following observations, a revised draft Order in place of the one at page 13 is sent herewith :-

(i) It is presumed that the rules made under section 27 of the Bombay Tenancy Act, 1939, are also to be applied to all the States to which the Act is being applied. The necessary provision is made in para.(c) of the revised Order.

(ii) Section 30 of the Bombay Tenancy Act amends the Bombay Land Revenue Code, 1879. But sub-para. (2) of para. 4 of the Administration of the Indian States Order, applied the Bombay Land Revenue Code to those States where there is no corresponding enactment in force. In the States where the State Land Revenue Act is in force, it is continued in force under sub-para. (1) of para. 4 of the said Order. In the latter States where the State Land Revenue it will be necessary to provide that the provisions corresponding to sections 50 and 88 to 94 of the Bombay Land Revenue Code in force in these State shall be deemed to have been amended or deleted by section 30 of the Bombay Tenancy Act, 1939,. A requisite draft Order (No. III) is accordingly sent herwith.

(iii) Under sections 28 and 29 of the Bombay Tenancy Act, 1939, a landlord has to make an application within a period of one year from the date of the coming into force of the Bombay Tenancy (Amendment) Act, 1946, to the Mamlatdar for a declaration that the tenant is not a tenant or a protected tenant as respectively. As the period prescribed has already expired, the remedy available to a landlord in the Province of the Bombay will not now be available to a landlord in the States to which the Act is being applied. It is therefore necessary to alter the said period and to specify instead a period of one year which will run from the date on which the provisions of the Act are

intended to be brought into force in the States. Section 2A, 3A and 4 have been amended accordingly in their application to the States.

The draft notification at page 13 ante, as slightly amended is in order.

Additional Secretary to Government.

U.R. to R.D.No. 6645. dated the 15th July 1948.

VGP.
1 - 6 - 56.

O R D E R.

Revenue Department.
Bombay Castle, July 1948.

No.7794/45-F.- In exercise of the powers conferred by section 4 of the Extra Provincial Jurisdiction Act,1947, (XLVIIof 1947), read with Notifications No. 174-1B, dated the 23rd March 1948, No.183-1B dated the 14th April 1948, and No. 224-P, dated the 28th May 1948 of the Government of India in the Ministry of States, and with paragraph 4 of the Administration of Bombay is hereby pleased to direct that with effect from the date of this Order,-

(a) The enactment corresponding to the provisions contained in the Bombay Tenancy Act, 1939, (Bom. XXIX of 1939) by whatever name or title named or described and if any, in force in any of the States mentioned in the Schedule hereto,(Hereinafter referred to as the said States) immediately before the date of this Order, shall be repealed, and

(b) The Bombay Tenancy Act, 1939, (Bom.XXIX of 1939) hereinafter called the said Act, subject to any amendment to which the said Act is for the time being subject in the Province of Bombay, shall, so far as the circumstances admit, subject however to the following modifications extend to the said States, namely :-

In the said Act, -

(i) except where the context otherwise requires, reference to the Province of Bombay reference to the in sub-section (2) of section 1 shall be construed as reference to the Province of Bombay and the said States.

(ii)

(ii) in sub-section (1) of section 2A, for the words and figures "of the coming into force of the Bombay Tenancy (Amendment) Act, 1946" the words and figures "from * July 1948" shall be substituted.

(iii) in sub-section (1) of section 2A for the words and figures "the date of the coming into force of the Bombay Tenancy (Amendment) Act, 1946", the word and figures" * July 1948" shall be substituted.

(2)
(iv) in sub-section (2) of section 4, -

(a) for the words and figures "after the coming into force of the Bombay Tenancy (Amendment) Act, 1948", the words and figures "from * July 1948" and

(b) for the words and figures "the date of the coming into force of the Bombay Tenancy (Amendment) Act, 1946" the words and figures "the * July 1948" shall be substituted.

(c) any rules made under the said Act in the Province of Bombay shall so far as circumstances admit, be deemed to have been made under the said Act so extended to the said States.

SCHEDULE.

Here insert A - A on page 13).

By order of the Governor of Bombay.

Secretary to Government.

VGP.

1 - 6 - 56.

NOTIFICATION.

No. 7784/45-F.- In exercise of the powers conferred by sub-sections (2) and (3) of section 1 of the Bombay Tenancy Act, 1939, and read with G.O.R.D. No. 7784/45-F, dated July 1948, the Government of Bombay is hereby pleased to extend the provisions of sections 2 to 30 (both inclusive) of the said Act to the States specified in the Schedule hereto appended and to direct that the said provisions shall come into force in the said States on July 1949;-

SCHEDULE.

(Here insert the States as in the order at p. 13)

By order of the Governor of Bombay

Secretary to Government.

VGP.

1 - 6 - 56.

Revenue Department,
Bombay Castle, July 1948.

ORDER.

No. In exercise of the powers conferrd by section 4 of the Extra-Provincial Jurisdiction Act, 1947 (XL VII of 1947), read with Notifications No. 174-IB, dated the 23rd March 1947, No. 183-IB dated the 14th April 1948, and No. 224-P, dated the 28th May 1948, of the Government of India in the Ministry of Indian States, read also with paragraph 4 of the Administration of the Indian States Order, and Government Notification, Revenue Department No. dated the 1948, the Government of Bombay us hereby pleased to direct that in the States mentioned in the Schedule hereto appended, in which before the date of this Order the provision corresponding to sections 59 and 88 to 94 of the Bombay Land Revenue Code, 1879 (Bom. V of 1879), has been in force the said provision shall be deemed to have been amended or deleted as the case may be by section 30 of the Bombay Tenancy Act, 1939 (Bom. XXIX of 1939) with effect from 1948. ....1948.

Schedule.

(Here mention the States).

By order of the Governor of Bombay.

Secretary to Government.

VGP.

1 - 6 - 56.

Sections 2 and 2A of the Epidemic Diseases Act, 1897, require modifications in their application to the Indian States. A revised order is accordingly sent herewith.

Additional Secretary to Government.

U.R. to P.& S.D. No. 6762 dated the 19th July 1948.

VGP.

1 - 6 - 56.

No.

Health and Local Government Department,

Bombay Castle, July 1948.

ORDER.

In exercise of the powers conferred by section 4 of the Extra-Provincial Jurisdiction Act, 1947, (XLVII of 1947), read with notifications No. 174-1-B, dated the 23rd March 1948, No. 183-B, dated the 14th April 1948, and No. 224-P, dated the 28th May 1948, of the Government of India in the Ministry of States, and with paragraph 4 of the Administration of the Indian States Order, the Government of Bombay is hereby pleased to direct that with effect from the date of this order,--

(1) The Epidemic Diseases Act, 1947 (III of 1897) subject to any amendment to which the said Act is for the time being subject in the Province of Bombay, shall, so far as the circumstances admit, subject however to the following modifications, extend to the States mentioned in the Schedules I to III annexed hereto (hereinafter referred to as the said States).

In the said Act ----

(a) in section 2, the reference to the Province of Bombay shall be construed as reference to the Province of Bombay and the said States;

(b) in section 2A, the reference to British India shall be construed as reference to all the Province of India and the said States.

(2) Any enactment, corresponding to the provisions contained in the Epidemic Diseases Act, 1947 (III of 1897), by whatever name or title named or decribed and if any in force in any of the said States shall be repealed with effect from the date of this order.

(Here enter A-A on pages 21-22 ante).

By order of the Governor of Bombay.

(P. T. O.)

Secretary to Government.

VGP.
1 - 6 - 58.

It appears from these papers that there is an electric power house at Rajpipla which was owned and managed by the State for several years . On 15th May 1948, the Maharaja of Rajpipla entered into an agreement with one Purohit for the sale of the electric power house with all its accessories and the land attached thereto and the grant of a licence for supplying electrical energy within the Rajpipla Minucial limits. Under clause 3 of the agreement, the existing transmission lines machinery, buildings, and surrounding lands will be purchased by the licences at a price to be fixed by an expert surpeyor agreeable to both the parties. The licence will be for a period of thirty years, renewable at for the further period of thirty years at the option of the licensee. On 7th June 1948, i.e. only three days before the Provincial Government took over the administration of the State, a license was granted to the said Purohit by the Maharaja of Rajpipla. The Question for R.L.A's consideration is whether the agreement which according to the report of the Chief Administrator "smacks very unsavoury" is binding on the Provincial Government.

2. The position in regard to agreements entered into by a Ruler before the merger of his State with private parties is fully explained in R. R.L.A's opinion no. 119-Confl, dated the 4th March, 1948. In the present case it is presumed that the Maharaja of Rajpipla has entered into an agreement for merger with the Dominion Government in the standard form prescribed for the purpose. Under article 1 of that agreement, the Maharaja has ceded to the Dominion Government full and exclusive authority, jurisdiction and powers for and in relation to the governance of the his State. This means that plenary sovereign jurisdiction has been ceded to the Central Government which is as effective as cession of territoty. As pointed out in R.L.A's opini on referred to above, it has beenrepeatedly ruled that in

such cases of cession, any inhabitant of the territoty can only make good in the municipal Courts established by the new soverign such rights as a sovereign has through his officers recognised. Such rights as he had under the rule of predecessors avail him nothing against the new Government, and could not be asserted in the Courts established by that Government except so far as they had been recognised by the new sovereign power. Recognition may be by legislation or by agreement express or implied (Syed Asrar Ahmed v. The Durgah Committee Ajmir, 49 Bom. I.R. 235 P.C.). In the agreement entered into by the Maharaja with the Dominion of India for the merger of his State, it is presumed there is no provision requiring the Provincial Government to respect any agreement entered into by the Maharaja with third parties. In view of the position stated in the opinion, the licensee cannot enforce the agreement entered into by him with the Ruler against the Provincial Government.

3. Even assuming that there is a provision requiring the Provincial Government to respect any agreement entered into by the Maharaja with third parties, it will not give title to the licensee to enforce his rights under agreement in the municipal courts; for, as pointed by the R.L.A. in his opinion referred to above the right to enforece remains only with the High Contracting parties. There is, therefore, no legal onligation on the Provincial Government to abide by the agreement entered into by the Maharaja with Mr. Purohit, and in view of the suspicious nature of the agreement, there is also no moral obligation on the Government to respect it.

Sd. | P.M.K.

Remembrancer of Legal Affairs.

U.R. to P.& S.D. No. 331 Confl, dated the 24th June 1948.

VGP.

1 - 6 - 56.

Sub- para. (1) of para. 1 of F.D. (S.O.)'snote at p.45.- The words "in the Province of Bombay and the said States" proposed to be inserted in the opening sentence of sub-section (1) of section 5 are unnecessary as under the Act no sales which take place outside the Province and the merged Indian States can be taxed. The words "in respect of sales and supplies of goods which occured after 31st March 1948 " in the original draft should be retained as the same words occur at the corresponding plac place in section 5of the Act.

2. The view taken by S.O. (F.D.) in sub-paras (2) and (3) of para.1 of his note at pages 46-47 is correct.

Additional Secretary to Government.

U.R. to F.D. No. 397- Confl., dated the 24th July 1948.

VDP.

1 - 6 - 56.

I have prepared a draft order on the lines of the draft sent by the Special Officer Mr. Tukol. In thepreparing the draft the points raised by Mr. Tukol in his note have been taken into consideration. As regards the transfer of criminals detained under the Anndh State Swatantrapur Colony Law it appears that no special provision is necessary as it will be possible to transfer the convicts to other jails under the provisions of the Prisoners Act, 1900, which it is now proposed to apply to the States, Presumably the colony in which the convicts have been detained under the Aundh State Swatantrapur Colony Law has been declared to be a prison. If not, the necessary declaration can be made under the Prisons Act, 1894.

VGP.

1 - 6 - 56.

Political and Services Departme nt—

Bombay Castle, 1948.

ORDER.

Now - in exercise of the powers conferred by section 4 of the Extra Provincial Jurisdiction Act, 1947, (XLVII of 1947 and read with Notifications No. 174-IB, dated the 23rd March 1948, No. 183-IB dated the 14th April 1948 and No. 224-P dated the 29th May 1948 of the Government of India in the Ministry of States, and in modification of Notification (Political and Services Department) No. 2751/46-P-1, dated 2nd June 1948, the Government of Bombay is pleased to make the following order, namely :-

1. Short title, application and commencement- (1) This Order may be called the Indian States (Application of Laws) Order, 1948.

(2). It shall apply to the Indian States.

(3) It shall come into force onthe.....

2. Interpretation.- (1) Unless there is anything repugnant in the subject or context --

(a) "Indian State" shall mean the States specified in Schedule I,

(b) "Schedule" means the schedule hereto annexed.

(2) The Bombay General Clauses Act, 1904 (Bom. I of 1904) applies for the interpretation of the Order as it applies for the interpretation of a Bombay Act.

3. Application of enactments to Indian States.- (1) All enactments specified in Parts I and II of Schedule I[A] and all notifications, orders, schemes, rules and by -laws issued, made or prescribed under such enactments and in force in the Province of Bombay immediately before the coming into force of this Order shall extend to and be in force in the Indian States subject to any amendments to which the said enactments are for the time be being generally subject in the Province of Bombay.

(2) All references to the Province of Bombay in the said

enactments, notifications, orders, schemes, rules and by-laws shall be construed as including references to the Province of Bombay and the Indian States.

4. Commencement of enactments in Indian States.- Notwithstanding anything in the said enactments defining the extent of and appointing the date for commencement, the said enactments except where expressly provided shall apply to the Indian States and shall be deemed to have come into force in the case of enactments specified in Part I of Schedule II on the date on which this Order comes into force and in the ~~date on~~ case of enactments specified in Part II of the said Schedule on .....

5. Repeal of enactments in force in Indian States.- All enactments in force in any Indian State or part thereof and corresponding to the enactments in force in the Province of Bombay and extended to any such State under paragraph 3 shall stand repealed.:

Provided that the repeal by this Order of any such enactments shall not affect the validity, invalidity, effect or consequence of anything already done or suffered or any right, title, obligation or liability already acquired, accrued or incurred or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing.

Nor shall the repeal by this order of any enactment affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage custom, privilege, restriction, exemption, office or appointment in so far the same respectively is not in any way inconsistent with any of the enactments extended under paragraph 3 of this order, and notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed.

Nor shall the repeal by this order of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now exixting or in force immediately before the date on which this order comes into force.

6. Saving of local authorities, Courts, Tribunals etc,- Any local authority or any Court, Tribunals authority, officer or official body, constituted or appointed or any society, institution or association whether incorporatd or not, registered or recognised under any law in force in any Indian State and repealed by this Order shall be demed to have been constituted, appointed registered or recognised under the corresponding enactment extended to the Indian State by this order and all proceedings pending before the said lcal authority, Court, Tribunal authority, officer or official body immediately before the repeal of anyenactment in force in any Indian State shall be continued before that local authority, Court, Tribunal, authorit officer or official body and that local authority, Court, Tribunal, authority, officer or official body shall continue to have for the purposes of the sid proceedings all jurisdiction and powers and shall be subject to the same control superintendence, appellatem revisional or otherwise, under the corresponding law extended under this Order to that Indian State as if that local authority, Court, Tribunal, authority, officer or official body was constituted or appointed under the corresponding law so extended.

7. Continuance of taxes, duties, fees etc.- Any taxes, duties, cesses or fees which immediately before the coming into force of this Order were being levied under any enactments in force in any Indian State repealed by paragrap 5 shall continue to be levied uner the correspondign enactments extended to such State under paragraph 3 until provision to the contrary is made by a competent authority.

8. Saving of rights of occupants of lands.- Notwithstanding anything contained in paragraph 3, the provisions of Chapters V to XI-A of the Bombay Land Revenue Code, 1879 (Bom. V of 1879) shall have no effect in any Indian State if such provisions are inconsistent with any rights conferred on the occupants of lands by any enactment of this Order or by any instrument having effect by virtue of such enactment.

9. Saving of limitation.- Notwithstanding anything contained in this order but subject to the provisions of paragraph 10 if the period of limitation prescribed by the Indian Limitation Act, 1908 (XI of 1903), for any suit, appeal or application is less than the period prescribed by any corresponding law in force in any Indian State immedtately before the commencement of this Order, such suit, appeal or application may be instituted within two years next after the date of the commencement of this Order or within the period prescribed by such corresponding law, whichever period first expires.

10. Institution of suits etc. in States.-
In computing the period of limitation prescribed for the institution of any suit appeal or application which could not be instituted by reason only of the fact that no Court having jurisdiction to entertain such suits appeal or application was established or existed in any Indian State on 10th June 1948 (hereinafter called the said date) or thereafter , the period from the said date until the expiry of two mothafter from the date on which such Court is established in such State shall be excluded.

11. Removal of difficulties.- (1)
The Provincial Government may from time to time by order publishe in the Official Gazette make such provision as appears to it to be necessary or expedient -

(a) for bringing the provisions of the enactments extended to the Indian State under this Order into effective operation;

(b) for making omissions from, additions to and adaptations and modifications of such enactments and for directing that any such enactment shall cease to apply to any of the Indian States; and

(c) for removing difficulties arising in connection with the application of such enactments to, or operation or enforcement thereof, in areas of the Indian States.

(2) Any order made under this paragraph may be made so as to be retrospective to any date not earlier than the date of the commencement of this order.

12. Construction of laws.- For the purpose of facilitating the application of any provision of any enactment extended to any Indian State under paragraph 3, any Court, Tribunal, or authority may construe the same and any notifications, orders, schemes, rules, forms or by-laws thereunder with such alterations not affecting the substance, as may be necessary or proper to adapt them to the matter before the Court Tribunal or authority

13. Continuation of certain enactments in the Aundh State.- Notwithstanding anything contained in this Order the provisions of the Bombay Village Panchayats Act, (Bom.VI of 1933) shall not extend to the Aundh State and for removal of doubts, it is hereby, declared that the provisions of the Aundh State Constitution Act I of 1939 continued to have effect by paragraph 11 of the Administration of the Indian States Order shall continue to have effect subject to the amendments specified in Schedule V to the said Order.

14. Decision of Provincial Government final regarding interpretation.- If any doubt arises regarding the interpretation of any of the provisions of this Order regarding the application of any enactment hereby extended

to any Indian State or the repeal of any enactment hereby repealed or the continuance of jurisdiction or powers of any local authority, authority, officer, official body, or the registration or recognition of any association, whether incorporated or not, or the continuance or levy of any xxxxx taxes duties, cesses or fees or any other matter provided by this Order, the decision of the Provincial Government shall be final and conclusive and shall not be liable to be questioned in any Court

Schedule I

Schedule II

Part I

Part II

By order of the Governor of Bombay,

Chief Secretary to Government

VGP. 3-8-56.

A revised draft notification is sent herewith.

Additional Secretary to Government.

E.R. to H.D. No. 7381 dated the 5th August 1948.

VGP .

1 - 8 - 56.

NOTIFICATION.

Home Department.

Bombay Castle, August 1948,

Code of Criminal Procedure 1898.

No. 5610/5.- In exercise of the powers conferred by sub-section (4) of section 9 of the Code of Criminal Procedure, 1898 (V of 1898), read with paragraph 3 of the Indian States (Application of Laws) Order, 1948, the Government of Bombay is pleased to appoint Mr. G.J. Bapat, M. A. LL.B., District and Sessions Judge, Kurundwad (Senior) State, to be, in addition to his own duties, an Additional Sessions Judge, in the Sangli Sessions Division and to direct that he shall sit at Sangli for the disposal of cases arising out of the Sangli Sessions Division.

By order of the Governor of Bombay.

Secretary to Government

VGP.

1 - 6 - 56.

It may be observed that by the Bombay Enlargement of Area and Alteration of Boundaries Order, 1948, the areas specified therein have formed part of the Province of Bombay and that by paragraph 4 of the said order the Governor of Bombay has been authorised to constitute all or any of the said areas into one or more new districts by making all or any of them part of one or more existing districts. The Governor of Bombay has accordingly issued a notified order No. 2751/46F. dated the 15th June 1948, merging some of the said areas in the Kaira, Panch Mahals and Ahmedabad Districts. As regards these areas the only thing now to do is to issue a notification under section 7 of the Bombay Land Revenue Code, 1879, on the lines of the notification supplied under R.L.A's U.R., will have automatic authority over the distrits so reconstituted which can are al already in his division. A requisites draft notification is s sent herewith.

2. As regards the areas if the States they do not from part of the Province of Bombay. But the Provincial Go vernment has been delegated the authority to administer them on behalf of the Central Government. And even thou h the Bombay Land Revenue Code, 1879, has now beenex extended to all such areas by the Indian States (Application of Laws) Order, 1948, they cannot legally form a Division in the Province of Bombay. There is no objection , however, to the Commissioner, N.D. being appointed as the Commissioner for the areas of the Indian States and other areas which are now known as Banas Kantha District and Mahi Kantha District. A revised draft notification is accordingly sent herewith.

Additional Secretary to Government.

H.R. to R.D. No. 7867., dated the 17th August 1948.

VGP.

1 - 6 - 56.

NOTIFICATION.

REVENUE DEPARTMENT.

BOMBAY CASTLE August 1948.

Bombay Land Revenue Code 1879.

No. In exercise of the powers conferred by section 7 of the Bombay Land Revenue Code, 1997 (Bom. V of 1879), the Government of Bombay is pleased to direct that .-

(i) The areas comprised of the Pandu Mewas Thana (consisting of Anghad, Pandu, Mevli, Dhari, Naika, Dodka Gothda, Kanoda, Pipleha, Itwad, Vakhtpur, Varnol, Mal, Gotardi, Moka-Paginu -Mauda, Nani Varnoli, Nahara), and the talikas of Umeta Chhaliar, Sihora which has formed part of the Kaira District under paragrph. 2 of Government order in the Political and Services Department No. 2751/46-F, dated the Political and Services Department No. 2751/46-F, dated the 15th June 1948 shall be included in and form part of the * taluka of the said district.

(ii) the areas comprised of the Sankheda Mewas (consisting of Vera, Alwa, Nasan Wirpur, Wasan Sawada Chmrangala, Vanzala, Bhilidia, Sindhiapura, Jival, Kamsoil Nampura, Pantalavdi, Nangam, Chudeswar, Bihora, Bengan, Nalia, Vadia-Virampura, Dudhpur, and the semi jurisdictional States of Agar, Gadboriad, Mandwa, Naswadi, Palasni, Shanor, Uchad and Vajiria which have formed part of the Panch Mahals District under paragraph 3 of the Government order in the political and services Department No. 2751/46-F, dated the 15th June 1948 shall bbe included in and form part of the * talika of the said district.

(iii) the areas comprised of Palaj taluka and Matosa Thana (consisting of Maguna, Dholi, Rampura, Tejpura, Virsoda, Masalpura, Ranipura, Memadpura, Ijpura, (Jethaj

Ijpura,(Barotha) which have formed part of the Ahmedabad District under paragraph 4 of Government Order in the Political and Services Department No. 2751/46-F, dated the 15th June 1948 shall be included in and form part of the Viramgam taluka of the said district.

By order of the Governor of Bombay

Secretary to Government.

VGP.

1 - 6 - 56.

NOTIFICATION.

REVENUE DEPARTMENT.

BOMBAY CASTLE, AUGUST 1948.

The Bombay Land Revenue Code, 1879.

No. 8458/45 (a) ;- In exercise of the Bombay Land Revenue Code, 1879, (Bom. V of 1879) read with paragraph 3 of the Indian States (Application of Laws) Order 1948, the Government of Bombay is pleased to direct that the areas, specified in the Schedule appended hereto shall be under the general control of the Commissioner, Northern Division.

SCHEDULE.

(Here insert A-A on p. 71 ante excluding the areas mentioned in Notification No. 1.).

By order of the Governor of Bomba

Secretary to Government.

VGP.

1 - 6 - 56.

Legal Departm

A revised draft notification is sent herewith.

2. The notification No. S. 46/2/80 dated the 25th June 1948, was issued under section 10 of the Code of Criminal Procedure 1898, Wadi - Jagir, Sangli, Miraj (Senior), Miraj (Junior), Jath and Jamkhandi, read with para 4 of the Administration of Indian States Order. The said order has now been modified by the Indian States (Application) of Laws) Order, 1948 para, 5 of which provides that all enactments in force in any Indian State or part ther of and corresponding to the enactments in force in the Province of Bombay and extended to any such State under para 3 shall stand repealed. Since the Code of Criminal Procedure, 1898, has been extended to all the Deccan States under para.3. o of the said order the State law of the Code of Criminal Procedure 1898, is no longer in force in any of the said States.

Additional Secretary to Govern ment.

U.R. to H.D. No. 7747 dated the 14th August 1948.

VGP.

1 - 6 - 56.

organisational strength", "unprecendented repression by Gove

NOTIFICATION.

REVENUE DEPARTMENT.

BOMBAY CASTLE August 1948.

Bombay Land Revenue Code 1879.

No. In exercise of the powers conferred by section 7 of the Bombay Land Revenue Code, 1897 (Bom. V of 1879), the Government of Bombay is pleased to direct that :-

(i) The areas comprised of the Pandu Mewas Thana (consisting of Anghad, Pandu, Mevli, Dhari, Raika, Dodka Gothda, Kanoda, Pipicha, Itwad, Vakhtpur, Varnol, Mal, Gotardi, Moka-Paginu -Mauda, Nani Varnoli, Nahara), and the talukas of Umeta Chhaliar, Sihora which has formed part of the Kaira District under paragrph. 2 of Government order in the Political and Services Department No. 2751/46-F, dated the Political and Services Department No. 2751/46-F, dated the 15th June 1949 shall be included in and form part of the * taluka of the said district.

(ii) the areas comprised of the Sankheda Mewas (consisting of Vora, Alwa, Hasan Wirpur, Wasan Sawada Chorangala, Vanmala, Bhilidia, Sindhiapura, Jival, Kamsoil Rampura, Pantalavdi, Nangam, Chudeswar, Bihora, Bengan, Malia, Vadia-Virampura, Dudhpur, and the semi jurisdictional States of Agar, Gadboriad, Mandwa, Naswadi, Palasni, Shanor, Uchad and Vajiria which have formed part of the Panch Mahals District under paragraph 3 of the Government order in the political and services Department No. 2751/46-F, dated the 15th June 1949 shall bbe included in and form part of the * taluka of the said district.

(iii) the areas comprised of Palaj taluka and Matosa Thana (consisting of Maguna, Dholi, Rampura, Tejpura, Viraoda, Masalpura, Ranipura, Nemadpura, Ijpura, (Jethaj

Ijpura,(Barotha) which have formed part of the Ahmedabad District under paragraph 4 of Government Order in the Political and Services Department No. 2751/46-F, dated the 15th June 1948 shall be included in and form part of the Viramgam taluka of the said district.

By order of the Governor of Bombay

Secretary to Government.

VGP.

1 - 6 - 56.

Notification.

Hom e Department,

Bombay Castle, August 1948

Code of Criminal Procedure, 1898.

No. S. 46/2/80.- In exercise of the powers conferred by sub-section (2) of section 10 of the Code of Criminal Procedure, 1898 (V of 1898) read with paragraph 3 of the Indian States (Application of Laws) Order, 1948, and in supersession of Government Notification, Home Department, No. S.46/2/80, dated the 25th June 1948, the Govt. of Bombay is pleased to appoint Mr. E. Gorey, Administrator for each of the Sangli, Miraj (Senior) Miraj. (Junior), Jath, Jamkhandi, Wadi Jahagir and Kurundwad (Senior) States as an Additional District Magistrate for each of the said States and to invest him with all the powers of a District Magistrate under the said Code. , and all other enactments applied to the said states by the aforesaid order.

By order of the Governor of Bomb

Secretary to Government.

VGP.

Legal Department.

Subsequent to the L.D. opinion No. 6082, dated the 30th June 1948, Government has issued an order called the Indian States (Application of Laws) Order 1948. By pragraph 3 of the said Order read with Part I of Schedule II, thereof the Bombay Land Revenue Code 1897, has now been extended to all the Indian States specified in Schedule I to the Order, among which "Wadi Jagir" is mentioned Under para, 5 of the said Order all enactments in force in any Indian State and corresponding to the enactments in force in the Province of Bombay extended to any such State under paragraph 3 shall stand repealed.

As the intention is that the Commissioner, Central Division shbuld be ex-officio of the Commissioner of the Wadi Jagir State the name of the person holding the post of the Commissioner, Central Division should not be specified in the notification. Otherwise every time the person holding the post of the Commissioner, Central Division is changed a similar notification will have to be issued in the case of Wadi Jagir. A revised draft notification is sent herewith.

Additional Secretary to Government.

U.R. to P. & S.D. No. 8597, dated the 10th September 1948.

VJP.

2 - 6 - 56.

NOTIFICATION

Revenue Department.

Bombay Castle, September 1948.

Bombay Land Revenue Code 1879.

No. - In exercise of the powers conferred by section 5 of the Bombay Land Revenue Code, 1879, (Bom. V of 1879) the Government of Bombay is pleased to direct that the Commissioner, Central Division shall also be a Commissioner for the Wadi Jagir State.

By order of the Governor of Bombay.

Secretary to Government.

VGP.

2 - 6 - 56.

NOTIFICATION.

Home Department.
Bombay Castle, September 1948.

Code of Criminal Procedure 1898.

No. - In exercise of the powers conferred by sub-section (1) of section 41 of the Code of Criminal Procedure, 1898 (V of 1898), read with paragraph 3 of the Indian States (Application of Laws) Order, 1948, the Government of Bombay is pleased to withdraw the powers of a Sub-divisional Magistrate conferred on and exercised by Mr. G.M. Mehta and Mr. S.M. Vyas respectively before the date of this notification within the limits of the Rajpipla State.

By order of the Governor of Bombay.

Secretary to Government.

VGP.

2 - 6 - 56.

A revised draft notification is sent herewith.

Additional Secretary to Government.

U.R. to H.D. No. 8859, dated the 13th September 1948.

VCP.

2 - 6 - 56.

Legal Department.

In these papers it is suggested that section 6 (3) rule I(iii), should be amended to make it clear that the dealer who sends goods to an address outside the Province of Bombay and the merged areas should get exemption, and that he should not get exemption if he sends to the areas which are comprised in the merged States. There is no objection to amend section 6(3), rule I(iii), for the purpose in the way suggested below. An amendment of section 5 of the Act as suggested in F.D. papers will be outside the scope Provincial Legislature. If section 5 is to be amended for the purpose states in the F.D. note so as to provide for dealers in the merged State, an amendment of the notification applying the Sales Tax Act to those States will be necessary. The Amendment suggested by the insertion of new section 6A is not correct. It will also be ultra vires of the Provincial Legislature. All that can be done is that in section 6(3), rule I(iii), after the words "Province of Bombay" the words "or the areas over which the provincial Government exercises, for the time being, jurisdiction under the Extra Provincial Jurisdiction Act, 1947," can be inserted. The Finance Department should see whether this amendment will suffice for the purpose. If necessary Mr. Nadkarni may come to Poona to discuss the matter personally here.

S. D.

Additional Secretary to Government.

U.R. to Secy. F.D. No. 9261, dated the 30th September 1948.

VGP.

2 - 6 - 56.

Legal Department.

The view taken in the D.O. letter of 20th October 1948 sent to Mr. Vakharia is correct. The relevant paragraph on which reliance can be placed is paragraph 5 of the Indian States (Application of Laws) Order, 1948. In view of the provisions of that para, succession certificates granted by the Radhanpur Court will have continued validity. Para. 6 of the Order which has been referred to by Mr. Tukol in his note has no relevance in this case. All that paragraph provides is for the saving of courts, tribunals etc, constituted under relevant laws in force in Indian States and the proceedings before such Courts, Tribunals, etc.

2. As the position is quite clear, there is no objection to sending Mr. Vakharia a reply on the point.

S. D.

Additional Secretary to Government.,
Legal Department.

U.R. to P.& S.D. No. 2814, dated the 22nd October 1948.

VGP.
2 - 6 - 56.

Office of the R.L.A.

Although under Government Notification No. 2325/46-F(1), dated the 30th July 1948, certain areas of the Deccan States have become parts of the districts specified in Schedule II to the Poona University Act, 1948, they have become so for the purpose of the Bombay Land Revenue Code and with reference to the Extra-Provincial Jurisdiction Act. The notification should have been more explicit. The States or parts thereof do not become part of the Province. They do not thus become part of the district specified in the said Schedule II to the Poona University Act, 1948 for the purpose of that Act. The Deccan States have not still become part of the Province of Bombay and are Indian States within the meaning of sub-section (4) of section 5 of the Poona University Act. After section 5 comes into force it would be therefore open to any educational institution in the Deccan States to apply to the University for being admitted to the privileges of the University.

S. D.

Remembrancer of Legal Affairs.

U.R. to E.& I.D. No. 9512, dated the 9th October 1948.

VGP.

2 - 6 - 56.

Office of the H.L.A.

The proposal is to apply the Bombay Secondary School Certificate Examination Act, 1948, to all the States which have merged in this Province, in virtue of the powers given to the Provincial Government under the Extra-Provincial Jurisdiction Act, 1947, with a view to recognising the high schools situate in the said States for the purpose of giving representation to such schools on the Board.

2. Section 2(h) of the Bombay Secondary Schools Certificate Examination Act, 1948, defined a "recognised high school" to mean a high school recognised by the Director of Public Instruction, Bombay Province, or an officer authorised by him in his this behalf or a high school registered by any University established by law in the Province, Section 3(2) (e) empowers the Provincial Government to nominate 12 members on the Board, out of whom not less than 5 shall be secondary teachers, from amongst Headmasters, Headmistresses and secondary teachers of recognised high schools. Section 2(d) defines a "Headmaster" or "Headmistress" to mean the head of the teaching staff of a recognised high school, by whatever style designated. The Act is so framed as to include within the operations of the Board high schools in the Indian States if they have been recognised by the Director of Public Instruction, Bombay Province, or an officer authorised by him in this behalf or been registered by any University established by law in the Province. There is, therefore, no additional advantage in applying the said Act, to the Indian States as proposed by E.& I.D. On the contrary by applying all the provisions of the Act without further adaptations to the Indian States which have merged in the Province, a liability may be cast upon Government to constitute a Board under section 3 of the Act for each of the Indian States to which the Act is made applicable.

VGP.

2 - 6 - 56.

Similarly if the Act is specifically applied to those Indian States only which have merged in the Province doubts will be raised whether the schools in other Indian States in the Province which have not merged such as Baroda and Kolhour are included within the operation of the Board constituted under the Act. In view of this legal position it is for E . & I.D. to consider whether the proposal should be pursued further.

S. D.

Remembrancer of Legal Affairs.

U.R. to E & I. D. No. 10163, dated the 29th October 1948.

VGP.
2 - 6 - 56.

Legal Department.

It will be necessary to issue two separate Orders one in respect of the Indian State under para. 11 of the Indian States (Application of Laws) Order, 1948, and another in respect of all the various Tal uka, thanas and estates under para. 4 of the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948 Two separate draft Order are accordingly prepared and sent herewith P. and S.D. should verify in consultation with R.D. whether the fresh dates substituted for the existing dates in the draft Order are suitable from the administrative point of view.

2. Under Government Order No. 8751/46 F, dated 15th June, 1948 the enactments in force in the Province of Bombay have been extended to the areas merged with and included in the existing district or districts by the said Order. The Bombay(Enlargement of Area and Alteration of Boundaries) Order, 1948, has been amended on 15th October 1948, so as to add more areas to the schedule appended to the Order. In view of the addition of the new areas, it will be necessary to issue another Order applying the enactments in force in the Province of Bombay to the new areas. After this is done the draft Order under the Bombay (Enlargement of Areas and Alteration of Boundaries) Order, 1948, should be issued.

S. D.

Additional Secretary to Government.

U.R. to P. and S.D.No. 10989, dated the 20th November 1948.

VGP.

2 - 6 - 56.

Legal Department.

The Home Department draft notification on pages 27-29 ante for the purpose of realigning boundaries of the relevant regions constituted under Government Notification, Home Department No. 4812/4 dated the 1st April 1944, so as to include the areas of the merged States is not legally in order. ~~to issue legally in order~~. It will be necessary to issue a separate order under section 44 of the Motor Vehicles Act, 1939 read with para 3 of the Indian States (Application of Laws) Order, 1948 for constituting each State into a separate region and then provide for appointment of the Regional Transport Authority for each region. The requisites draft notification in this behalf is sent herewith. Mahi Kantha district has been renamed as Sabar Kantha district (vide G.N. P. & S DepartmentNo 2751/46-G dated the 4th October 1948).

S.D.

Additional Secretary to Government.

U.R. to H.D. No. 10991, dated the November 1948.

VGP.

2 - 6 - 56.

Home Department.

Bombay Castle, 1948.

Motor vehicles Act, 1939.

No. - In exercise of the powers conferred by sub-section (1) of section 44 of the Motor Vehicles Act, 1939 (IV of 1939) read with paragraph 3 of the Indian States (Application of Laws) Order, 1948, the Government of Bombay is pleased to constitute Regional Transport Authorities mentioned in column 3 of the Schdule hereto for the regions mentioned opposite thereto in columns 1 and 2 of the said Schdule, to exercise and discharge throughout the said regions the powers and functions conferred upon them by or under Chapter IV of the said Act, namely:-

SCHEDULE.

Name of Region.	Territorial extent of the region.	Regional Transport Authorities.	Headquarters of Regional Transport Authorities.
1.	2.	3.	4.

xxxxxxxxxxxxxx xxxxxxxxxxxxx

The view taken by the S.O. (P & S.D.) concurred in by the Chief Secretary is correct. It is has been repeatedly advised by the R.L.A that the State Areas do not form part of the Province of Bombay. The Provincial Government of the administer all States areas in the province on behalf of the Central Government. One method of administering the States Areas is to apply the provincial Acts to such Areas under the Extra- Provincial Jurisdiction Act, 1947 and to replace the State Officials of the Provincial Government by the officers of. Nevertheless the area remains the States Area as district from the area of the province.

2. Two revised draft notification in place of the draft at p.87 ante sent herewith. The draft notification at pp.97-99 ante as amended is in order.

S. D.

Additional Secretary to Government.

U.R. to R.D.NO 12519, dated the 31st Dec. 1948.

VGP.

2 - 6 - 56.

In this case first there was the proposal to appoint Mr. V.A.Mehta, Additional Sessions Judge, Baria State, as Additional Sessions Judge, Broach and Panch Mahals. The Special Officer, P.& S.D. therefore pointed out that it was necessary -

(i) to notify Baria State as a Sessions Division of Broach and Panch Mahals under section 7 of the Code of Criminal Procedure; and

(ii) to appoint Mr. Mehta under section 9 as the Additional Sessions Judge for Broach and Panch Mahals. That proposals has now been dropped and it is proposed now to appoint the Sessions Judge, Broach and Panch Mahals as the Aditional Sessions Judge for Baria State. The Special Officer in his note at page 32 himself advised that under the circumstances it is not necessary t o notify Baria State as a District under Criminal Procedure Code and that it is sufficient if the Sessions Judge, Broach and Panch Mahals is appointed under Criminal Procedure Code as an Additional Sessions Judge for Baria State.

The question of issuing draft notifications I and II on pa 31 does not now arise.

Notification No. III at page 31, as amended is in order.

S. D.

Additional Secretary to Government.

U.R. to H.D. N o. 12453, dated the 30th December 1948.

VOP.

2 - 6 - 56.

Under Government Notification No. 2328/46-F(1) dated 30th July 1948, issued under section 7 of the Bombay Land Revenue Code, 1879, certain areas of the Indian States specified therein have been constituted as arts of the existing Districts of the Province of Bombay e.g. Bijapur District, Dharwar District. The question referred to the R.L.A for consideration is whether the said areas of place the Indian States can, without an legal formalities, be placed under the jurisdiction of the District Local Boards already constituted for the Districts in the Province of Bombay.

2. As pointed out in R.L.A's opinion No. 9512, dated 9th October 1948, the areas of the States which have become part of the existing districts in the Province of Bombay under the afore said Government notification have become so for the purpose of the Bombay Land Revenue Code and with reference to the Extra -Provincial Jurisdiction Act. They cannot, therefore, automatically come un under the jurisdiction of the District Local Boards constituted for the districts, in the Province of Bombay. Section 131A of the Bombay Local Boards Act, 1923, can, therefore, hav no application in such cases.

3. Attention in this connection is invited to paragraph 6 of the Indian States (Application of Laws) Order, 1948, under which any local authority constituted under any law in force in any Indian State and repealed by the Order is deemed to have been constituted under the corresponding enactment extended to the Indian States by the Order. In virtue of the provisions of this paragraph District Local Boards constituted in Indian States under rlevant Laws in force in the States shall continue to fuontion under the Bombay Local Boards Act, 1923 which has been extended to the Indian States by the Application of Laws Order.

It appears that this provision was deliberately inserted in order to keep alive local authorities constituted under relevant laws in Indian States.

S. D.

Remembrancer of Legal Affairs.

U.R. to H. & L.A.D. No. 9884, dated the 22nd October 1948.

VGP.
2 - 6 - 56.